

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**MICHAEL BRAINERD,**

**04-CV-1735-JE**

**Petitioner,**

**ORDER**

**v.**

**GUY HALL, Superintendent, Two  
Rivers Correctional Institution,**

**Respondent.**

**STEVEN T. WAX**  
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**C. RENEE MANES**  
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**BROWN, Judge.**

Magistrate Judge John Jelderks issued Findings and Recommendation (#54) on April 11, 2007, in which he recommended the Court deny Petitioner's First Amended Petition for Writ of Habeas Corpus (#14) and dismiss this matter with prejudice. Petitioner filed timely objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988); *McDonnell Douglas Corp. v. Commodore Business Mach., Inc.*, 656 F.2d 1309, 1313 (9<sup>th</sup> Cir. 1981), *cert. denied*, 455 U.S. 920 (1982).

This Court has carefully considered Petitioner's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. This Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

**CONCLUSION**

The Court **ADOPTS** Magistrate Judge Jelderks's Findings and Recommendation (#54), **DENIES** Petitioner's First Amended Petition

for Writ of Habeas Corpus (#14), and **DISMISSES** this matter **with prejudice**.

IT IS SO ORDERED.

DATED this 30<sup>th</sup> day of May, 2007.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge